Fed. 241. Power to establish reasonable rates for future transportation of interstate commerce is vested in the Commission, and not in the Commerce Court. *Hooker* v. *Interstate Com. Com.,* 188 Fed. 242; *Eagle White Lead Co.* v. *Same,* 188 Fed. 256.

It is interesting to note that the decision in the principal case is the first opinion rendered by the United States Commerce Court. This court was created by Act of Congress June 18, 1910, 36 Stat. 539: its principal jurisdiction being to review the orders of the Interstate Commerce Commission. It is composed of five Circuit Judges, four of whom are necessary to constitute a quorum. The President was authorized to appoint the first incumbents who, by the provisions of the statute were to serve for five, four, three, two, and one year respectively. The Chief Justice of the United States is given the power to appoint successors from among the Circuit Judges in commission. The membership of the court at present consists of the Hon. Martin A. Knapp, Hon. R. W. Archbald, Hon. William H. Hunt, Hon. John E. Carland, and Hon. Julian W. Mack.

COVENANTS RUNNING WITH THE LAND—BUILDING RESTRICTIONS.—X conveyed a lot to plaintiff's grantor, the deed containing a covenant not to build nearer than seven feet to the front line of plaintiff's lot; X had previously conveyed an adjoining lot to defendant's grantor, the deed containing a covenant to build a hotel not less than seven feet from the front line, and not less than twelve feet from the side line, of defendant's lot. In the deed of defendant's lot there was no reference to adjacent lands owned by X, but the covenant was stated to be "a covenant running with the land hereby conveyed." Plaintiff's grantor built a house one wall of which was on the side line of her lot, and contained several windows overlooking the twelve-foot strip on defendant's lot. Subsequently X quit-claimed to defendant "for the purpose of * * * releasing the covenants and restrictions" in the earlier deed to defendant's grantor. Plaintiff sued to enjoin defendant from building on the twelve-foot strip, and appeals from a decree for defendant. *Held,* that the two deeds did not create reciprocal obligations; that as there was no provision that the building restriction should apply to new structures, the parties evidently did not intend the restriction to be permanent and pass with the property; the covenant did not run with the land. *Berryman* v. *Hotel Savoy Co.* (Cal. 1911), 117 Pac. 677.

Whether or not a restrictive building covenant shall bind successive purchasers in favor of purchasers of other lots is a question of intention to be deduced from the facts and circumstances. 1 SMITH'S LEADING CAS. (Ed. 11) 92. No special words are necessary to create a covenant running with the land. *Electric City Land and Imp. Co.* v. *West Ridge Coal Co.,* 187 Pa. St. 500, 41 Atl. 458. The very existence of a restrictive covenant raises a presumption that it is for the benefit of the land retained. *Coughlin* v *.Barker,* 46 Mo. App. 54, but this is by no means conclusive. Undue weight has perhaps been given the absence of a provision extending the application of the covenant to buildings subsequently erected, for building restrictions apply with equal force to the second and successive buildings erected. *Holt* v. *Fleischman,* 75 App. Div. 593, 78

N. Y. Supp. 647. If the covenant was personal, the quit-claim deed was useless; if it ran with the land, it was ineffective. *Hansell* v. *Downing*, 17 Pa. Super. Ct. 235; *Abby* v. *Goodrich*, 3 Day (Conn.) 433; *Sherwood* v. *Hubbel*, 1 Root 498. Covenants run with the land only when made for the benefit of other land. Where the covenant is made pursuant to a general plan, it runs with the land. *Jackson* v. *Stevenson*, 156 Mass. 496. Where the vendor retains land part of which is sold, the restrictive covenant is construed to be for his personal benefit. *Sharp* v. *Ropes*, 110 Mass. 381, but this again depends upon the circumstances. *In re Birmingham and District Land Co.*, 1 Ch. 342. In England burdens do not run with the land, *Austerberry* v. *Oldham*, 29 Ch. Div. 750, and this has given rise to the doctrine that where one buys land with notice of the existence of a restrictive covenant, equity will enforce the covenant against him even if it does not run with the land. *Tulk* v. *Moxhay*, 2 Ph. 774. This "appears * * * to be * * * an extension in equity of the doctrine in *Spencer's Case* [5 Co. Rep. 16a], to another line of cases, or else an extension in equity of the doctrine of negative easements." *London & S. W. Ry. Co.* v. *Gomm*, 20 Ch. D. 583. And it makes no difference that the one seeking to enforce the covenant did not purchase with reference thereto. *Rogers* v. *Hosegood* [1900], 2 Ch. D. 388.

DAMAGES—EXCESSIVENESS—PERSONAL INJURIES—REMITTITUR.—Plaintiff, a brakeman in the employ of defendant company, was severely injured through the alleged negligence of the defendant's servants. The evidence of negligence was conflicting, and there was a showing that plaintiff had contributed to his injury by failure to exercise due care. Testimony, immaterial and tending to prejudice the jury against defendant, was admitted but later withdrawn. Counsel for plaintiff made improper remarks during argument, failing to confine himself to the evidence; the court ordered his remarks withdrawn, but did not expressly instruct the jury against giving them consideration. Jury awarded the plaintiff a verdict of $50,000. On appeal it was *held*, that the verdict was excessive and a remittitur of $25,000 was awarded. *St. Louis, I. M. & S. Ry. Co.* v. *Brown* (Ark. 1911) 140 S. W. 279.

The Arkansas court in reaching its conclusion concedes that the jury was doubtless influenced by sympathy in arriving at a verdict so unwarranted by the evidence. But the court holds that under such circumstances it is in its discretion to allow the entry of a remittitur in an amount that seems just and reasonable. This ruling is contrary to the weight of authority in this country, and is, in effect, an overruling of the court's prior decisions in *St. Louis, I. M. & S. Ry. Co.* v. *Waren*, 65 Ark. 619; *St. Louis, I. M. & S. Ry. Co.* v. *Adams*, 74 Ark. 326. In these cases it was held that when the evidence is conflicting as to the right to recover, and an excessive verdict has been granted through passion or prejudice, the error cannot be cured by remittitur, but a new trial should be awarded as to the cause in its entirety. This rule has been followed in a majority of the States where the question has been squarely presented for adjudication. *Davis Iron Works Co.* v. *White*, 31 Colo. 82; *Lowenthal* v. *Streng*, 90 Ill. 74; *Atchison* v. *Plunkett*, 61 Kan. 297; *Chitty* v. *St. Louis etc. Ry. Co.*, 148 Mo. 64; *Wainwright* v. *Satterfield*, 52 Neb. 403;